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# International Junior Scholars Forum in Law and Social Science

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October 26-28, 2021  
Presented via Zoom



清华大学 法学院  
School of Law, Tsinghua University



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# International Junior Scholars Forum in Law and Social Science Schedule

## October 26, 2021 MODERATOR: William HUBBARD

7:20 am Chicago / 2:20 pm Zurich / 8:20 pm Beijing	Introductory Remarks
7:30 am Chicago / 2:30 pm Zurich / 8:30 pm Beijing	<b>Meirav FURTH-MATZKIN, Assistant Professor of Law</b> <b>UCLA School of Law and Tel Aviv University Buchmann Faculty of Law</b> <i>“Discriminatory Enforcement of Consumer Contracts: Evidence from a Field Experiment”</i>
8:15 am Chicago / 3:15 pm Zurich / 9:15 pm Beijing	<b>Monika LESZCZYNSKA, Assistant Professor of Empirical Legal Research</b> <b>Maastricht University Faculty of Law</b> <i>“Why do People Reject Free Beneficial Offers?”</i>
9:00 am Chicago / 4:00 pm Zurich / 10:00 pm Beijing	End Time

## October 27, 2021 MODERATOR: Stefan BECHTOLD

7:30 am Chicago / 2:30 pm Zurich / 8:30 pm Beijing	<b>Kevin TOBIA, Assistant Professor of Law</b> <b>Georgetown University Law Center</b> <i>“Public Meaning”</i>
8:15 am Chicago / 3:15 pm Zurich / 9:15 pm Beijing	<b>Ying XIA, Assistant Professor, HKU Faculty of Law</b> <i>“Comrades or Corivals? Citizen and State Plaintiffs in Environmental Public Interest Litigation in China”</i>
9:00 am Chicago / 4:00 pm Zurich / 10:00 pm Beijing	End Time

## October 28 2021 MODERATOR: Simin GAO

7:30 am Chicago / 2:30 pm Zurich / 8:30 pm Beijing	<b>Andrew BAKER, Fellow</b> <b>Rock Center for Corporate Governance, Stanford Law School</b> <i>“The Effects of Hedge Fund Activism”</i>
8:15 am Chicago / 3:15 pm Zurich / 9:15 pm Beijing	<b>Yuhao WU, Assistant Professor of Law</b> <b>Peking University, School of Transnational Law</b> <i>“More Lawyers, Better Case Outcomes? Evidence from the ‘Lawyers for All’ Program in China”</i>
9:00 am Chicago / 4:00 pm Zurich / 10:00 pm Beijing	End Time

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## PRESENTERS AND ABSTRACTS

October 26, 2021



### **Meirav FURTH-MATZKIN**

Assistant Professor of Law

UCLA School of Law and Tel Aviv University Buchmann Faculty of Law

Meirav Furth-Matzkin is an Assistant Professor of Law at UCLA School of Law and at TAU law school, where she teaches contracts and consumer law. Her scholarship focuses on contracts and consumer protection and regulation, which she studies from the perspectives of social psychology and behavioral law and economics. Before joining UCLA, Furth-Matzkin was an Olin Law & Economics Fellow and Lecturer in Law at the University of Chicago Law School, where she

worked on unenforceable terms in consumer contracts, fine print fraud, and selective enforcement of contracts, using mixed empirical methods (including field and lab experiments).

In her scholarship, Furth-Matzkin examines the often surprising disparities between the contracts consumers sign or click through, the rules that are meant to govern them, and the ways in which sellers actually behave in their daily interactions with our contracting parties consumers. Furth-Matzkin's publications have appeared in leading law reviews and peer-reviewed journals, including the Stanford Law Review, the Minnesota Law Review, and the Journal on Legal Analysis.

Furth-Matzkin received her B.A. and L.L.B. degrees (magna cum laude) at the Hebrew University of Jerusalem, and her LL.M. and S.J.D. at Harvard Law School, where she won the Dean's Scholar Prize in Behavioral Economics, Law & Public Policy, the John M. Olin Prize for the best paper in Law & Economics, and the Fisher-Sanders Prize for the best paper in negotiations and dispute resolution. Before joining Harvard, she clerked for Justice Uzi Vogelman of the Supreme Court of Israel.

### **“Discriminatory Enforcement of Consumer Contracts: Evidence from a Field Experiment”**

#### **Abstract**

Recent evidence suggests that sellers often selectively enforce standardized contract terms, authorizing employees to deviate from these terms on a case-by-case basis. This Article reports on a field experiment designed to test whether discretionary enforcement of consumer contracts leads to racial or gender discrimination. Nineteen testers of different races and genders were recruited and trained to return non-receipted clothing items to Chicago-based retail stores with formal receipt requirements for returns. The findings reveal that sellers are significantly more likely to treat white female customers more favorably than required by their return policies than they do African-American or male customers who use identical bargaining strategies. In particular, African-American male testers attempting to make a non-receipted return were 28 percent less likely to be offered a refund or store credit than were white female testers returning the same item and following an identical script. The results also show that store clerks are more likely to deviate from the formal policy to the detriment of African-American customers compared to white customers (for example, by refusing to accept a return even when the policy so allows). The results suggest that discretionary enforcement of consumer contracts facilitates on-the-ground discrimination.

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### **Monika LESZCZYŃSKA**

Assistant Professor of Empirical Legal Research  
Maastricht University Faculty of Law

Monika Leszczyńska is Assistant Professor of Empirical Legal Research and a Marie Skłodowska-Curie Fellow at the Maastricht University Faculty of Law, Netherlands. She received her PhD in law from University of Bonn (Germany). In her research, she studies how contract law interacts with individual contractual behavior. Specifically, she focuses on how people approach the making of a contract and its performance and what this behavior means for our understanding of contract law. To answer her research questions, she uses a variety of empirical methods such as behavioral experiments, vignette studies as well as systematic content analysis and computational methods.

## **“Why do People Reject Free Beneficial Offers?”**

### **Abstract**

*People’s reliance on digital goods and services such as cloud storage, social networks, movie streaming, or all sorts of mobile applications is constantly increasing.* Consumers oftentimes can use these products without paying a cent. This, however, does not yet mean that they give nothing in exchange. Many digital goods and services come with various additional non-monetary costs – consumers pay with their attention to advertisements, by providing their personal data, or by letting the companies track their behavior online. This diversity makes it challenging for consumers to recognize whether and what is exactly expected from them in exchange when they are offered a product at a zero-price. Consequently, consumers may not be able to distinguish beneficial from detrimental zero-price offers. In addition, the legal status of these exchanges is also unclear. Legal scholars in different legal systems have been questioning whether it is a valid contract, whether such transactions should be protected by consumer law or whether advertising a product that does not involve monetary but only non-monetary costs as “free” should be found misleading.

Previous research has revealed that people tend to overestimate the benefits of zero-price products and that such offers lead to positive emotional responses (Shampanier et al. 2007). Others have shown that these positive responses are also triggered by pseudo-free offers, i.e., zero-price goods that involve non-monetary costs (Dallas and Morwitz 2018). In contrast, in this project, we investigate whether the uncertainty surrounding offers for zero-price digital goods and services can also backfire and lead to a rejection of free beneficial offers. In a series of online experiments (N=2,442), we show that free offers may indeed lead to negative responses and be rejected. Importantly, in contrast to previous studies, in our experiments we offer products that are beneficial to participants, i.e., they will help them earn more money without imposing any costs. Nevertheless, comparing various framings we consistently find a high share of individuals (ca. 30-60%) rejecting a product offered to them for free. The initial results suggest that people perceive such free offers as suspicious, questionable, and dishonest, which, in turn, make them forgo even a truly free and profitable deal. Currently, we are conducting further experiments that will allow us to pin down the exact mechanism underlying people’s rejections of free beneficial offers. Next, we would like to design an intervention that will help diminish this effect.



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**Kevin TOBIA**

Assistant Professor of Law  
Georgetown University Law Center

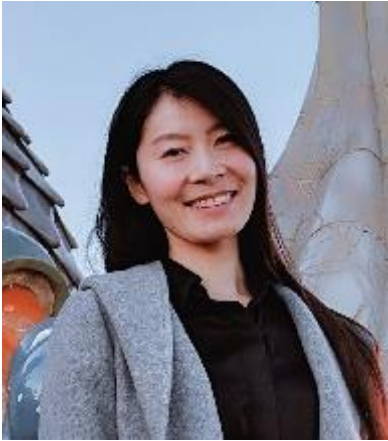
Kevin Tobia is an Assistant Professor of Law at Georgetown University Law Center and Assistant Professor of Philosophy (by courtesy) at Georgetown University. Professor Tobia’s research centers on legal theory, legislation, torts, LGBTQ law, and legal education. At Georgetown, Professor Tobia teaches Torts and the Legal Justice Seminar and organizes meetings of the Georgetown Law & Language Lab, a research group in law and cognitive science. Prof. Tobia received a B.A., *summa cum laude*, in Philosophy, Mathematics, and Cognitive Science from Rutgers University; a B.Phil. (Philosophy M.A.) with distinction from Oxford as an Ertegun Scholar; and a J.D. and Ph.D. with distinction from Yale, as an Articles Editor of the Yale Law Journal and Editor-in-Chief of the Yale Journal of Law & the Humanities, Coker Teaching Fellow in Torts, and Prize Teaching Fellow in Philosophy. Professor Tobia’s scholarship has been awarded the Yale Law School Felix S. Cohen prize for legal philosophy and the AALS Section on Jurisprudence “Future Promise Award” for scholarship in legal philosophy, and it has appeared or is forthcoming in the *Harvard Law Review*, *Yale Law Journal*, *Columbia Law Review*, and *University of Chicago Law Review*, and peer-reviewed journals including *Analysis*, *Cognitive Science*, the *Journal of Nuclear Medicine*, and *Mind & Language*.

**“Public Meaning”**

**Abstract**

Abstract: Modern textualists define their interpretive methodology in terms of "ordinary meaning," what a legal text communicates to the ordinary public. This commitment is taken to promote fair notice, the rule of law, and democratic values. Yet, textualist judges regularly rely on legal dictionaries and other evidence of technical meaning. Textualist theory, committed to the ordinary public’s understanding of law, seems inconsistent with textualist practice, which often gives terms technical (non-ordinary) meanings. This Article investigates a possible solution through an empirical study of ordinary people’s understanding of technical language in law. Five studies (N = 3,020) suggest that ordinary people assume legal terms will be given legal meanings even when they also have ordinary meanings and intuitively defer to legal experts about the meanings of those terms. This empirical discovery carries several implications. First, ordinary people defer to legal experts regarding the meanings of terms with legal meanings. This resolves the tension between textualist theory and practice. Second, the evidence supports a general intuitive presumption of legal meaning over ordinary meaning. Third, the results suggest that “fair notice” should be reconceptualized as a value that can be imperfectly satisfied. Ordinary people rarely have “perfect” notice of law’s meaning, but often have “partial” notice. Finally, the results support an empirically grounded shift in textualist interpretation. Interpreters concerned about “ordinary people” should look beyond ordinary meaning. “Public meaning,” which includes ordinary and technical meanings, is the criteria that better reflects ordinary people’s understanding of law.

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**Ying Xia**  
Assistant Professor  
HKU Faculty of Law

Ying Xia received her S.J.D. from Harvard Law School. Her doctoral thesis examines the socio-legal implications of Chinese investment in African countries. During her study at Harvard, Ying was also awarded the Yong K. Kim '95 Memorial Prize for her work on the connections between China's environmental campaign and the international trade in waste. She also received an LL.M. in international law and an LL.B. from Peking University. Ying's research interests include environmental law, international law, and law and public policy, with a focus on experience

from developing countries.

## **“Comrades or Corivals? Citizen and State Plaintiffs in Environmental Public Interest Litigation in China”**

### **Abstract**

The expansion of standing to sue in public interest litigation (PIL) to include NGOs and procuratorates is one of the ground-breaking developments in China's environmental rule-of-law. Benchmarking the attributes of China's PIL against the experiences of Western democracies, scholars have focused on the evolution of legal rules and concepts, including the standing doctrines, liability standards, and burden of proof. Little attention was paid to the institutional aspect, such as organizational norms, resource constraints, and issue-framing strategies of civil society actors, or the socio-political aspect, such as the effect of judicial reform and the increasingly institutionalized environmental inspections on PIL adjudication. Building on in-depth interviews with procurators and NGOs in China, this article is among the first to provide a comprehensive, empirical evaluation of the effectiveness of NGO-led and procuratorial environmental PIL, respectively, and the relationship between the two emerging regulatory actors. We argue that organizational goals, incentive structures, and resource constraints have driven Chinese environmental NGOs and procuratorates to develop different priorities in PIL, thus creating a certain level of “division of labor” or complementarity. Moreover, the co-existence of NGOs and procuratorates also contributes to building political synergy for strengthening the PIL system in China. Procuratorates benefit from NGOs' assistance in capacity building and their pioneering ideas in the application of environmental law, while NGOs can capitalize on procuratorial efforts to overcome formal and informal barriers to investigation and developing more liberal rules of environmental PIL, such as rules on standing to sue and management of compensation for ecological damage.



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**Andrew Baker**

Fellow

Rock Center for Corporate Governance, Stanford Law School

Andrew Baker is a recent JD/PhD graduate from Stanford University. He earned a B.S. magna cum laude from Georgetown University, where he majored in International Economics. After graduating he worked as litigation consultant and as a Research Fellow under Professor John Donohue at Stanford Law School. His research areas includes corporate governance, financial regulation, and causal inference. He is currently a Fellow at the Rock Center for Corporate Governance and a member of

Stanford's RegLab 2021 Summer Institute.

## **“The Effects of Hedge Fund Activism”**

### **Abstract**

In this paper I explore the relationship between the rise of hedge fund activism and firm outcomes, using a study design that explicitly takes into account how activists pick their targets. Contrary to much prior work, I find no evidence that activism is associated with increased firm operating performance or significant long-term returns once comparing to firms based on their similarity to the targets. However, activism does increase firm payouts to shareholders and decreases investment, consistent with the argument of many critics of activism. I also find that firm-level employment declines significantly following a targeting event, and that the subset of firms that experience an increase in operating performance also engage in higher levels of tax avoidance. The deregulation of proxy access rules, wholesale de-staggering of corporate boards, and the rise in importance of proxy advisory firms who frequently recommend voting for activist proposals have made firms more susceptible to aggressive activism over the past three decades. The results in this paper, coupled with the rhetorical shift in focus from short-term profits to sustainable growth by large institutional investors, suggest a re-framing of the public debate over the benefits of shareholder activism.

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### Yuhao Wu

Assistant Professor of Law  
Peking University, School of Transnational Law

Yuhao Wu is an Assistant Professor of Law at Peking University, School of Transnational Law. His research interests center on empirical legal study, criminal justice theory, and quantitative criminology. Yuhao Wu's research is highly interdisciplinary. His recent work involves using statistical and computational methods to analyze court decisions and the functioning of the justice system. He is also interested in the broad idea of the place-

based dimension of crime, with a focus on investigating how a sudden change in the environment affects crime. Some of his research has been published in several elite journals, such as *Journal of Experimental Criminology*, *Crime, Law and Social Change*, *Asian Journal of Criminology*, *Global Law Review*, *Studies in Law and Business*, and *Peking University Law Journal*.

Yuhao Wu received his Bachelor of Laws, a B.A. in economics and his Ph.D. in law from Peking University. He received his Ph.D. in criminology from University of Pennsylvania. Before joining Peking University, he was a research scientist at CUHK, Shenzhen institute of big data.

## More Lawyers, Better Case Outcomes? Evidence from the “Lawyers for All” Program in China

### Abstract

“Representation by a lawyer is a fundamental right of criminal defendants in most countries. However, whether these lawyers contribute to better case outcomes remains an open question. Access to a lawyer is common for felony defendants in the United States, therefore, comparison between represented and unrepresented cases focused largely on misdemeanors. By contrast, in China, a large portion of felony defendants had been unrepresented until a one-year pilot program, the “lawyers for all” (LFA) was carried out in several provinces in 2017. This study assesses whether the LFA program has led to more lenient outcomes for felony defendants. Using data from defendants charged with robbery in Guangdong province, my results show that overall case outcomes did not change during the post-LFA period. While court-appointed lawyers were able to help defendants receive a more lenient sentence during the pre-LFA period, this effect disappeared after the LFA program was carried out. A possible explanation is that inexperienced lawyers provided a large amount of LFA service, which compromised the overall quality of legal aid services.”

## ABOUT THE FORUM

The Chicago-ETH-Tsinghua International Junior Scholar Forum on Law and Social Science selected six scholars to present work-in-progress. Each paper will be given a 45-minute slot, which will begin with a brief, 10-minute presentation by the author, introducing the main argument of the paper. The presentation will then be followed by group discussion and Q&A. To facilitate a roundtable workshop format, there will be no prepared comments by the discussants. All papers will be distributed and read by all participants in advance, to enable rigorous and broad conversation.

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